

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

RAFAEL ARROYO MELECIO, et al.,

Plaintiffs

v.

CASE NUMBER: 02-1396 (HL)

PUERTO RICAN AMERICAN INSURANCE

COMPANY, et al.

Defendants

ORDER

Before the Court is Defendants' Motion for Judgment on the Pleadings (Docket No. 86). Plaintiffs opposed the motion on September 1, 2005 (Docket No. 91), and defendants, in turn, filed a sur-reply on September 27, 2005 (Docket No. 94). In addition, the parties have filed a joint motion to stay discovery pending the resolution of the motion for Judgment on the Pleadings (Docket No. 90).

After the case was remanded from the Appeal's Court, only the Casellas boycott federal antitrust claim remains to be decided. Defendants have filed a motion for judgment on the pleadings as to the aforementioned claim, which the First Circuit Court declined to dismiss on a 12(b)(6) motion. Given the similarity between the standard for dismissal under 12(b)(6) and under a motion for judgment on the pleadings, and given that matters outside the pleadings have been presented by the defendants' for the Court's consideration, the Court will convert defendants' motion for judgment on the pleadings to a motion for summary judgment. See e.g., Gulf Coast Bank & Trust Co. v. Reder, 355 F.3d 35, 38 (1st Cir. 2004); Rubert-Torres v. Hospital San Pablo, Inc., 205 F.3d 472, 475 (1st Cir. 2000)(discussing Court's discretion to convert motion for judgment on the pleading into motion for summary judgment).

The parties are hereby put on notice of the Court's intention to convert the pending motion for judgment on the pleadings into one for summary judgment. Defendants shall have thirty days, until December 3, 2005, to file a supporting statement of material facts as required by Local Rule 56. Thereafter, plaintiffs will have until January 3, 2006 to file an opposing statement of material facts as required by Local Rule 56.

In view of the aforementioned, the Court hereby **DENIES without prejudice** defendants' motion for judgment on the pleadings (Docket No. 86), given that the Court intends to convert the same into a summary judgment motion. The parties' joint motion to Stay Discovery (Docket No. 90) is hereby **DENIED**.

Date: 11/3/05

**S/ HECTOR M. LAFFITTE
U.S. District Judge**

